

HOUSE BILL No. 1050

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-30-1-5.

Synopsis: Actions against a surveyor. Provides that an action to recover damages for a deficiency in a land survey must be brought against the surveyor not later than 10 years after the date of the survey. Sets forth requirements for a notice of survey letter to an adjoining landowner. Provides that an action for damages for a survey completed before July 1, 2015, may not be brought against a surveyor unless the action is commenced within 15 years after the date of the survey.

Effective: July 1, 2015.

Ober, McMillin

January 6, 2015, read first time and referred to Committee on Judiciary.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1050

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-30-1-5, AS AMENDED BY P.L.79-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 5. (a) As used in this section, "designer" means a
4 person who:
5 (1) designs, plans, supervises, or observes the construction of an
6 improvement to real property; ~~or~~
7 (2) constructs an improvement to real property; **or**
8 **(3) is a registered professional surveyor.**
9 (b) As used in this section, "possessor" means a person having
10 ownership, possession, or control of real property at the time an alleged
11 deficiency in an improvement to the real property causes injury or
12 wrongful death.
13 (c) As used in this section, "deficiency" does not mean a failure by
14 a possessor to use reasonable care to maintain an improvement to real
15 property following a substantial completion of an improvement.



(d) As used in this section, "survey" means the practice of surveying as defined in IC 25-21.5-1-7(a).

(e) If a survey is not a retracement or original boundary survey as defined in 865 IAC 1-12, for purposes of this section, "date of the survey" means the latest of:

(1) the date that the survey, plat, or other work product that resulted from the survey was:

(A) certified; or

(B) recorded;

(2) the date of completion of the field work; or

(3) if subdivisions (1) and (2) do not apply, the date when the professional service or product was delivered to the client.

(f) If a survey is a retracement or original boundary survey as defined in 865 IAC 1-12, for purposes of this section, "date of the survey" means the date a notice of survey letter is sent to an adjoining landowner as described in subsection (h).

~~(d)~~ (g) An action to recover damages, whether based upon contract, tort, nuisance, or another legal remedy, for:

(1) a deficiency or an alleged deficiency in the design, planning, supervision, construction, or observation of construction of an improvement to real property;

(2) an injury to real or personal property arising out of a deficiency; or

(3) an injury or wrongful death of a person arising out of a deficiency; or

(4) a deficiency or an alleged deficiency in a survey;

may not be brought against a designer, **surveyor**, or possessor unless the action is commenced within the earlier of ten (10) years after the date of substantial completion of the improvement, **ten (10) years after the date of the survey**, or twelve (12) years after the completion and submission of plans and specifications to the owner if the action is for a deficiency in the design of the improvement.

(h) A notice of survey letter must:

(1) be sent by first class United States mail;

(2) be sent to the mailing address of the adjoining landowner where the adjoining landowner's property tax bills are mailed;

(3) be sent only to the first owner listed on property tax records;

(4) identify the general location of the surveyed property; and

(5) include the:

(A) recording information;



- 1 **(B) name of the office where the plat and surveyor's report**
2 **of the retracement or original boundary survey was**
3 **recorded; and**
4 **(C) name, mailing address, telephone number, and license**
5 **number of the professional surveyor who certified the**
6 **survey.**
7 **(i) An action to recover damages under this section, for a survey**
8 **completed before July 1, 2015, may not be brought against a**
9 **surveyor unless the action is commenced within fifteen (15) years**
10 **after the date of the survey.**

